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# Remedium

October 5, 2006

Ms. Bonita Lavelle  
US EPA Region 8  
EPR - SR  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO 80202

## ADMINISTRATIVE RECORD

Dear Bonnie,

The Grace files have been reviewed for information concerning Polychlorinated Biphenyls (PCB) usage in the electrical equipment at the former Libby Mine properties (OU-3). According to the contents of these files, disposal of PCB-containing electrical equipment took place from 1979 until late 1994. The beginning inventory of on-site transformers was developed in 1981 when Sunohio Field Services for Electric Power Systems conducted a comprehensive review of all transformers on the Libby Mine properties and analyzed the liquids for PCB content. Table 1 (attached) shows the 95 transformers that were located and tested, and all except 6 were identified by serial numbers. In almost all cases, backup data are available to show when and where the transformers left the property. Supporting documentation will be supplied on request.

In addition to the transformers, a number of PCB-containing capacitors (serial numbers unavailable) were used on the mine properties. The final EPA rules relating to Polychlorinated Biphenyls Manufacturing, Processing,

Distribution In Commerce and Use Prohibitions became effective on July 1, 1979. In response to these rules, PCB-containing capacitors (50), which had been taken out of service prior to and after this date, were shipped offsite for proper disposal. The disposition took place in 4 shipments during 1979 & 1980. By the end of 1980, there were no PCB-containing capacitors on the Libby Mine properties (see attached PCB Inventory prepared by W. R. Grace & Co. in August 1986). Over the next few years, contaminated soils, surplus PCB liquids, and PCB-contaminated liquids removed from transformers and from storage were also shipped offsite for proper disposal (see Table 2 attached).

It should be pointed out that the USEPA Region 8 filed a Complaint and Notice of Opportunity for Hearing against W. R. Grace & Co. on 12/28/90 alleging failure to properly dispose of PCBs from 6 leaking transformers (see attached EPA Docket No. TSCA (PCB) VIII-91-04). In a letter dated March 7, 1991, EPA asserted that leaks from the transformers constituted "disposal" and hence were improperly disposed under Section 761.60 of the rule. The complaint was based on the observation of an EPA inspector who visited the Libby Mine properties on July 26, 1990 specifically for a PCB inspection. The six leaking transformers were subsequently removed from service and were properly disposed of offsite on January 17, 1991. After reviewing the case, Grace signed a Consent Agreement and paid a civil penalty of \$15,000 on 5/22/91.

Based on this review of the existing Libby files, it is believed that the handling, removal, and disposal of the PCB-containing equipment, dielectric fluids

containing PCBs, and soils contaminated with PCBs at and on the Libby Mine properties have been properly handled and underwent proper offsite disposal.

If there are any questions, please advise.



Robert R. Marriam

Cc: Catherine LeCours  
Montana DEQ

dwp  
Enclosures

TABLE 1

# LIBBY, MT OPERATIONS LIST OF TRANSFORMERS (a)

Line No.	Serial No.	Capacity (gal.)	Location	Disposition		
				Recipient	Sold/Destroyed	Date
1	6225198	15E	Zooks Dump Spare	N/A	-	N/A
2	E250371-60K	15E	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
3	8629149	100	Zooks Dump Spare	T&R Electric	Sold	7/28/1994
4	8629147	100	Zooks Dump Spare	S. D. Meyers Inc.	Destroyed	1/17/1991
5	8629143	100	Zooks Dump Spare	T&R Electric	Sold	3/25/1994
6	7149732	102	Zooks Dump Spare	T&R Electric	Sold	3/25/1994
7	9813255	50E	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
8	9812500	50E	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
9	9813258	50E	Zooks Dump Spare	T&R Electric	Sold	3/25/1994
10	1888597	150E	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
11	1888593	150E	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
12	1884690	150E	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
13	S690501N	47	Zooks Dump Spare	T&R Electric	Sold	3/25/1994
14	S690502N	47	Zooks Dump Spare	T&R Electric	Sold	3/25/1994
15	S690503N	47	Zooks Dump Spare	T&R Electric	Sold	3/25/1994
16	2435516	3	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
17	B184149	4E	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
18	9394807	18E	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
19	6893690	26	Zooks Dump Spare	Envirosafe Services of Idaho	Destroyed	1983
20	4650952	23.5	Zooks Dump Spare	T&R Electric	Sold	3/25/1994
21	5035506	27	Lower Ore Bins	T&R Electric	Sold	3/25/1994
22	2668585	20	Zooks Dump Spare	T&R Electric	Sold	3/25/1994
23	6591697	50	Zooks Dump Spare	Envirosafe Services of Idaho	Destroyed	1983
24	6591699	50	Zooks Dump Spare	Envirosafe Services of Idaho	Destroyed	1983
25	6591696	50	Zooks Dump Spare	Envirosafe Services of Idaho	Destroyed	1983
26	8687848	125	Zooks Dump Spare	Envirosafe Services of Idaho	Destroyed	1983
27	8687846	125	Zooks Dump Spare	Envirosafe Services of Idaho	Destroyed	1983
28	8687847	125	Zooks Dump Spare	Envirosafe Services of Idaho	Destroyed	1983
29	ZE908	210	Zooks Dump Spare	T&R Electric	Sold	4/7/1994
30	ZE910	210	Zooks Dump Spare	T&R Electric	Sold	4/7/1994
31	ZE909	210	Zooks Dump Spare	T&R Electric	Sold	4/7/1994
32	33708	17.5	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
33	2974557	5E	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
34	8466259	5E	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
35	615209	5E	Zooks Dump Spare	T&R Electric	Sold	11/10/1993

TABLE 1

# LIBBY, MT OPERATIONS LIST OF TRANSFORMERS (a)

Line No.	Serial No.	Capacity (gal.)	Location	Disposition		
				Recipient	Sold/Destroyed	Date
36	2001382	3	Zooks Dump Spare	T&R Electric	Sold	11/10/1993
37	1758834	8E	Zooks Dump Lights	T&R Electric	Sold	11/10/1993
38	-	30E	T. P. Service Shop	N/A	-	N/A
39	6250244	30E	T. P. Service Shop	T&R Electric	Sold	11/10/1993
40	7149734	102	Transfer Point	T&R Electric	Sold	3/25/1994
41	C374941	75E	Transfer Point	S. D. Meyers Inc.	Destroyed	1/17/1991
42	C374943	75E	Transfer Point	S. D. Meyers Inc.	Destroyed	1/17/1991
43	C374944	75E	Transfer Point	T&R Electric	Sold	11/10/1993
44	N/A	35E	Diesel Tanks	N/A	-	N/A
45	6809370	35E	18th Level Dump Light	T&R Electric	Sold	11/10/1993
46	62150365	150	Sub #11	T&R Electric	Sold	11/10/1993
47	62150367	150E	Sub #1	T&R Electric	Sold	11/10/1993
48	62150366	150	Sub #1	T&R Electric	Sold	11/10/1993
49	C169534	105	Sub #1	S. D. Meyers Inc.	Destroyed	1/17/1991
50	C169536	105	Sub #1	S. D. Meyers Inc.	Destroyed	1/17/1991
51	C169535		Sub #1	T&R Electric	Sold	4/7/1994
52	7527410	129	Sub #1	T&R Electric	Sold	3/25/1994
53	7527412	129	Sub #1	T&R Electric	Sold	3/25/1994
54	7527411	129	Sub #1	T&R Electric	Sold	3/25/1994
55	7149736	102	Sub #1	T&R Electric	Sold	3/25/1994
56	9647171	20E	Sub #1			
57	2727811	214	Sub #1	Envirosafe Services of Idaho	Destroyed	1983
58	2727810	214	Sub #1	Envirosafe Services of Idaho	Destroyed	1983
59	2727812	214	Sub #1	Envirosafe Services of Idaho	Destroyed	1983
60	SEV3172-01	1160	Main Sub			
61	1-37Y4872	170	Main Sub	T&R Electric	Sold	3/25/1994
62	9784286	20E	Zooks Dump Spare South of Mill	T&R Electric	Sold	11/10/1993
63	S680824N	47	Sub #5	T&R Electric	Sold	11/10/1993
64	S680825N	47	Sub #5	T&R Electric	Sold	11/10/1993
65	S680826N	47	Sub #5	T&R Electric	Sold	11/10/1993
66	6225199	20E	Sub #5	T&R Electric	Sold	11/10/1993
67	9584818	25E	90' Flock House	T&R Electric	Sold	11/10/1993
68	6250240	40E	Old Wet Mill	T&R Electric	Sold	11/10/1993
69	B1295541	37E	Open St. Rage	T&R Electric	Sold	11/10/1993
70	72A11715	200E	OS&B			

# LIBBY, MT OPERATIONS LIST OF TRANSFORMERS (a)

Line No.	Serial No.	Capacity (gal.)	Location	Disposition		
				Recipient	Sold/Destroyed	Date
71	S730077N	260	Tail Skid	Aptus	Destroyed	4/2/1993
72	72F218	200E	Block House			
73	TAV7558-01	503	Unit Sub 1A	S. D. Meyers Inc.	Destroyed	6/13/1991
74	TAV7558-02	503	Unit Sub 1B	S. D. Meyers Inc.	Destroyed	6/13/1991
75	8628833	321	Main Sub (Pond)	T&R Electric	Sold	3/25/1994
76	8628832	321	Main Sub (Pond)	S. D. Meyers Inc.	Destroyed	1/17/1991
77	8628834	321		T&R Electric	Sold	3/25/1994
78	424-2	750	Main Sub Screening Plt. W	T&R Electric	Sold	7/15/1994
79	424-3	750	Main Sub Screening Plt. C	T&R Electric	Sold	7/15/1994
80	424-1	750	Screen Plant E	T&R Electric	Sold	7/15/1994
81	TAV7921-01	287	Screening Plant	N/A	Unknown	
82	-		River Pump House - G&W Switch	N/A	-	REMAINS ON SITE
83	7303571	10E	River Pump Pole Mt.	N/A	-	REMAINS ON SITE
84	-	20E	River Loading	EPA	Unknown	
85	E250381-60K	20E	River Loading	T&R Electric	Sold	11/10/1993
86	E250382-60K	20E		T&R Electric	Sold	11/10/1993
87	2662767	7	Pump House Pole Mt. (North)	T&R Electric	Sold	11/10/1993
88	2660850	7	Pump House Pole Mt. (South)	T&R Electric	Sold	11/10/1993
89	PXH80272	25E	Main Sub	T&R Electric	Sold	3/25/1994
90	-		Pump House Switch #303	N/A	-	REMAINS ON SITE
91	-		Pump House Switch #301	N/A	-	REMAINS ON SITE
92	-		Pump House Switch (Lighting) Pond	N/A	-	REMAINS ON SITE
93	9647880	25	Domestic Water	T&R Electric	Sold	11/10/1993
94	6225200	16	Domestic Water	T&R Electric	Sold	11/10/1993
95	2033149	16	Domestic Water	T&R Electric	Sold	11/10/1993

(a) Serial No., Capacity, and Location taken from Transformer Oil Test Reports performed in 1981 by SUNOHIO Field Services for Electric Systems.

Prepared By: Debbie Parker  
10/05/06

TABLE 2  
LIBBY, MT OPERATIONS  
DISPOSAL OF PCBs

Type	Material Handler			PCB Weight	Material Destruction		
	Picked Up By	Pick Up Date	Units		Destroy Date	Cert. of Destruction	Disposer
Capacitors (2)	Wes-Con Incorporated	1979	1 Drum		8/23/1979	#861	Wes-Con Incorporated
PCB Liquids from Above	Wes-Con Incorporated	1979		12 kg	8/23/1979	#861	Wes-Con Incorporated
Capacitors (33)	Wes-Con Incorporated	1979	15 Drums		9/21/1979	#863	Wes-Con Incorporated
PCB Liquids from Above	Wes-Con Incorporated	1979		196 kg	9/21/1979	#863	Wes-Con Incorporated
Capacitors (10 )	Wes-Con Incorporated	1979	5 Drums				
PCB Liquids from Above	Wes-Con Incorporated	1979		61 kg			
Capacitors (5)	Chem Security Systems	1980	2 Drums				
PCB Liquids from Above	Chem Security Systems	1980		31kg			
PCB Waste	Envirosafe Services of Idaho, Inc.	12/22/1983		Unknown	12/22/1983	LTR 1/2/1985	Rollins Environmental Services (TX) Inc.
PCB Waste	Envirosafe Services of Idaho, Inc.	Unknown		37,060 lbs	4/6/1984	LTR 9/10/84	Rollins Environmental Services (TX) Inc.
PCB Liquids	Westinghouse Electric Corp.	5/3/1986		1,300 gal			
PCB Solids	Westinghouse Electric Corp.	5/3/1986	2 Drums				
PCB Solids	Westinghouse Electric Corp.	1986	2 Drums				
PCB Liquids	Envirosafe Services of Idaho, Inc.	7/18/1989	1 Drum	395 lbs	10/20/1989	LTR 10/25/89	Rollins Environmental Services (TX) Inc.
PCB Solids	S. D. Meyers Inc.	6/13/1991	5 Drums	975 kg			
PCB Solids	S. D. Meyers Inc.	8/8/1991	5 Drums	1132 kg	10/20/1991	LTR 12/4/91	Rollins Environmental Services (TX) Inc.
PCB Liquids	T & R Electric	4/8/1994	1 Tank	622 kg			
Bushings - 10	T & R Electric	4/8/1994	2 Drums	389 kg	5/4/1994	LOAD 3190	U. S. Pollution Control, Inc.
PCB Liquids	T & R Electric	4/8/1994	1 Tank	3 kg	6/14/1994	LOT CT444D	U. S. Pollution Control, Inc.
Bushings - 2	T & R Electric	4/8/1994	1 Drum	59 kg	7/20/1994	LOAD 5585	U. S. Pollution Control, Inc.

Prepared By: Debbie Parker  
10/05/06

**TABLE 3**

**LIBBY, MT OPERATIONS  
ADDRESSES OF DISPOSAL/TRANSFER COMPANIES**

**Aptus Inc. Environmental Services  
P. O. Box 1328  
Coffeyville, KS 67337  
(316) 251-7498**

**Chem Security Systems  
P. O. Box 1209  
Portland, OR**

**Envirosafe Services of Idaho, Inc.  
P. O. Box 936  
Mountain Home, ID 83647  
(208) 587-8434**

**Rollins Environmental Services (TX) Inc.  
P. O. Box 609  
Deer Park, Texas 77536  
(713) 479-6001**

**S. D. Meyers Inc.  
180 South Avenue  
Talmadge, OH 44278  
(415) 770-9492**

**SunOhio  
1700 Gateway Blvd., S. E.  
Canton, OH 44707**

**T&R Electric  
P. O. Box 197  
Hwy. 34 West  
Colman, SD 57017  
(605) 534-3571**

**US Pollution Control Inc. (USPCI)  
1628 W. 9th St.  
Kansas City, MO 64101**

**US Pollution Control Inc. (USPCI)  
Grassy Mt. Facility  
3 mi East, 7 mi North of exit 41 off 1-80  
Clive, UT**

**Wes-Con Incorporated  
Box 393  
Grandview, ID 83624**

**Westinghouse Electric Corp.  
10831 E. Marginal Way S.  
Seattle, WA 98168**



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII

Docket No. TSCA (PCB) VIII-91-04

IN THE MATTER OF:	)	
	)	
W. R. Grace & Company	)	COMPLAINT AND NOTICE OF
Libby, Montana 59923	)	OPPORTUNITY FOR HEARING
	)	
Respondent.	)	

COMPLAINT

This civil administrative action is instituted pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 16 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615. Complainant is C. Alvin Yorke, Chief, Toxics Substance Branch, EPA Region VIII, who has been duly authorized to institute this action. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 CFR Part 22 ("Consolidated Rules of Practice").

GENERAL ALLEGATIONS

1. EPA has jurisdiction of this matter under section 15 of TSCA, 15 U.S.C. § 2614 ("section 15.")
2. Respondent is W. R. Grace & Company (hereinafter referred to as "Respondent.")
3. Respondent owns and/or operates a facility in or near Libby, Montana (the "Facility.")
4. Respondent is a "person" within the meaning of 40 CFR

761.3, and thus is subject to regulation.

5. On or about July 26, 1990, Messrs. Jay M. Sinnott and Dan W. Bench, inspectors for EPA (the "Inspectors"), conducted an inspection of the Facility (the "Inspection"), with the consent of Respondent, to determine compliance with TSCA and EPA regulations relating to polychlorinated biphenyls ("PCBs"), 40 CFR Part 761. Notices of inspection and confidentiality were issued to representatives of Respondent.

6. EPA's PCB regulations define "disposal" of PCBs to include "spills, leaks, and other uncontrolled discharges of PCBs. . . ." 40 CFR 761.3.

7. The PCB regulations require that PCBs, as defined at 40 CFR 761.3, be disposed of by the methods specified in the regulations. 40 CFR 761.60.

8. During the Inspection, the Inspectors determined that six transformers ("the Transformers") were leaking fluid. The transformers were manufactured by General Electric. Serial numbers and approximate volume of dielectrics for each transformer are as follows:

<u>Serial no.</u>	<u>Gallons</u>
8629147	100
C374941	75
C374943 (TC-53)	75
C169534	105
C169536	105
8628832	321

9. Subsequent lab analyses of the leaking fluid from the Transformers showed that each Transformer contained dielectrics with PCB concentrations over 50 ppm.

10. Respondent's failure to properly dispose of the leaking PCBs described above, as required by 40 CFR 761.60, constitutes a violation of section 15.

#### PENALTY DESCRIPTION

Section 16 of TSCA, 15 U.S.C. § 2615, and the regulations promulgated under section 6 of TSCA, 15 U.S.C. § 2605, authorize the assessment of a civil penalty of up to \$25,000 per day of violation for each violation of TSCA.

Based upon the facts alleged in this Complaint and upon the nature, circumstances, extent and gravity of the violations, Respondent's history of prior violations of TSCA, the degree of culpability of Respondent, Respondent's ability to pay, and such other matters as justice may require, as known to Complainant at this time, Complainant proposes that Respondent be assessed a civil penalty of \$15,000 for the violation alleged in this Complaint.

#### NOTICE OF OPPORTUNITY FOR HEARING

As provided in Section 16(a) of TSCA, 15 U.S.C. § 2615(a), respondents have the right to request a formal hearing within twenty (20) days after a complaint is served. If you (1) wish to contest the factual claims made in this Complaint; (2) wish to

contest the propriety of the proposed penalty; and/or (3) feel that you are entitled to judgment as a matter of law, you must file a written Answer in accordance with 40 CFR 22.15 and 22.37 within twenty (20) days after this Complaint is served. Should you choose to contest any aspect of this Complaint your answer must (1) clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint; (2) briefly state all facts and circumstances, if any, which constitute grounds for a defense; and (3) specifically request an administrative hearing, if desired. The denial of any material fact shall be construed as a request for a hearing. Failure to deny any of the factual allegations in this Complaint will constitute an admission of the undenied allegations. The Answer shall be sent to the EPA Region VIII Hearing Clerk, 999 - 18th Street, Suite 500, Denver, Colorado 80202-2405. Please send a copy of the Answer and all other documents which you file in this action to the attorney noted below.

IF YOU FAIL TO REQUEST A HEARING, YOU WILL WAIVE YOUR RIGHT TO FORMALLY CONTEST ANY OF THE ALLEGATIONS SET FORTH IN THE COMPLAINT.

IF YOU FAIL TO FILE A WRITTEN ANSWER WITHIN THE TWENTY (20) DAY TIME LIMIT, A DEFAULT JUDGMENT MAY BE ENTERED PURSUANT TO 40 CFR 22.17. THIS JUDGMENT MAY IMPOSE THE PENALTY AS PROPOSED IN THE COMPLAINT.

You are further informed that the Consolidated Rules of Practice prohibit any ex parte (unilateral) discussion of the

merits of any action with the Regional Administrator, Regional Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the decision of the case, after the Complaint is issued.

#### SETTLEMENT CONFERENCE

EPA encourages all parties against whom a civil penalty is proposed to pursue the possibility of settlement as a result of informal conferences. Therefore, whether or not you request a hearing, you may confer informally with the Agency concerning (1) whether the alleged violation in fact occurred as set forth above, or (2) the propriety of the proposed penalty in relation to the size of your operation, the gravity of the violation and the effect of the proposed penalty on your ability to continue in business.

The request for an informal conference does not stay the running of the twenty (20) day time period for requesting a hearing and filing an answer.

To explore the possibility of settlement in this matter or if you have questions, please contact the attorney listed below.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION VIII,  
Complainant.

Date: 27 December 1990 By: C. Alvin Yorke  
C. Alvin Yorke, Chief  
Toxics Substance Branch

Date: 12/28/90 By: Linda S. Kato  
Linda S. Kato, Attorney  
Office of Regional Counsel  
999 18th Street Suite 500 (8RC)  
Denver, Colorado 80202-2405  
(303) 293-1458 (FTS 330-1458)